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The public debt transaction: backdoor approach to the Federal treasury.

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THE PUBLIC DEBT TRANSACTION: BACKDOOR APPROACH TO THE FEDERAL TREASURY

By Major R. W. Calvert, USMC

A term paper submitted in partial satisfaction of the requirements for

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PREFACE

One of the most significant issues on which the battles of the second session of the eighty-sixth Congress probably will be fought is the little publicized, little understood controversy over the advisability and even the legality of continuing to finance a number of important government activities through so-called public debt transactions.

This paper explains how this "device" works, the methods used in this "backdoor" approach, and the views of those supporting this method of finance as well as the views of their opponents.

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I. NATURE OF THE TRANSACTION

The public debt transaction can be better understood after an examination of the public debt itself and the appropriation process which critics of the public debt transaction allege is bypassed.

The Public Debt

Money which is borrowed by the Treasury and not yet repaid is called the public debt. Most borrowing is from the public, but the Treasury also borrows from the larger trust funds which have authority to invest in Government securities.

A few Government enterprises borrow directly from the public. These borrowings are not part of the public debt. The Government guarantees certain of these securities but not all of them.

A debt limit, established by statute, controls all but a minor part of the public debt and all of the Government-guaranteed debt of Government enterprises. It is a control over the total debt that can be outstanding at any one time.

The budget surplus or deficit is the principal factor which determines the amount by which the public debt increases or decreases from year to year. Other factors may also affect the debt: the drawing down or building up of the Government's cash on hand and its bank balances (together with the change in checks outstanding and deposits in transit), and the use

of corporate debt and investment transactions by the Government's public enterprise funds.[1]

The Appropriation Process

Most Federal agencies have to run the congressional gauntlet twice to get funds for their programs. First, the program is authorized by the regular legislative committees. The authorization law defines the framework and limits of the program and must clear both the Senate and House. It includes a section which "authorizes to be appropriated" certain amounts to carry out the program. This does not actually appropriate the funds. Second comes the appropriation bill. This actually draws the money from the Treasury by directing the Secretary to turn over a certain amount of money to the agency handling the program. This agency must go back to the appropriations committees each year and request further appropriations to carry on its program.

From the Treasury's point of view, this double look has obvious advantages. Authorization bills are frequently passed under the spur of some unusual event or crisis; the second check gives time for a calmer second look. Legislative commitees tend to have a vested interest in their subjects; the House Agriculture Committee wants to spend as much as possible for the farmer, and the House Banking Committee as much as possible for housing. The appropriations committees can weigh

[1]U.S., Bureau of the Budget, Federal Budget in Brief--1961, (Washington: U.S. Government Printing Office, 1960), p. 52.

all these demands against each other.

The authorization bill is normally handled by the legislative committees having responsibility for the programs being considered. The appropriations committees handle the appropriation bill and can only appropriate up to the amount authorized in the authorization bill.[2]

There are some cases, such as interest on the public debt, where permanent authority exists and whatever amounts are needed become automatically available each year, without any action by the Congress. Authorization and appropriation are related in three ways: (1) authorization is usually in a separate law, which must be followed by a specific appropriation act, (2) authorization is contained in the appropriation act, (3) the authorization act itself provides the contracting and spending authority. It is this last category that gives rise to the issue of backdoor spending.

The Public Debt Transaction

Backdoor financing is accomplished by writing spending authority into the original authorizing act. This eliminates all review--original and annual--by the appropriations committees. The initial authorization bill setting up the program gives the agency involved authority to spend from the public debt receipts by borrowing the money directly from the Treasury. No further accounting to Congress is necessary until it

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needs additional borrowing authority.

The theory of authorizations to expend from public debt receipts is built upon the relatively simple proposition that it is expected the outlay of funds from the Treasury will be repaid at some future date. This is in contrast to ordinary appropriations for the general support of the Government where no return to the Treasury is expected.

Since it is most usually employed in Government lending programs or in the financial operations of Government corporations, it is argued that this provides a sounder way of providing capital than normal appropriations. Under closer inspection, however, this argument is deficient since Congress does not resort to the use of the public debt transaction technique in all financial problems of this type. For example, in many activities which require initial capital to conduct a program simulating the normal operation of a business, Congress appropriates the necessary funds through the regular appropriations process. It is expected also that these sundry Government "business type" activities financed through appropriations will repay the capital to the Treasury when their usefulness has ended.

The public debt transaction technique has at times been used in programs where there was a tacit understanding that the funds may not be fully repaid to the Treasury. For example, it has been the practice of Congress to periodically increase authorizations to expend from public debt receipts for the Commodity Credit Corporation. This Government organization is involved in buying surplus agricultural products

and in reselling them; and it is tacitly if not officially recognized that this subsidy program cannot be conducted without a loss. On several occasions Congress has had to provide it with relief by cancelling the obligations held by the Treasury. As of June 10, 1957, the Treasury Department reported that there had been cancellations of over $3 billion for this activity. On May 28, 1958, the Commodity Credit Corporation owed the Treasury $11 billion.[3]

More recently the device has been used for programs usually financed by appropriations with the frank intention of by-passing the annual review by the appropriations committees.[4]

How it came about

Prior to the Civil War, each committee of Congress handled its own appropriations. But when the national debt became so large in 1865, Congress decided that some agency was needed to take a "second look." Needed was an agency which would consider the overall picture and aid the Government in handling the national debt. So the appropriations committees were created. The jurisdiction of the other committees to handle appropriations bills was taken from them.

The creation of the Reconstruction Finance Corporation in 1932 marked the first recognized departure from the regular

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[3]Chamber of Commerce of the United States, Taxpayer's Dollar, Vol. 7, No. 8, (July, 1958), p. 2.

[4]Charles B. Seib, "Backdoor Spending Dodges Congress' Control," Nation's Business, (October, 1958), p. 49.

appropriations process. In January, 1932, in order to meet the emergency situation caused by the depression, the Senate Banking and Currency Committee adopted a new procedure to finance RFC activities. The Reconstruction Finance Corporation Act, authorized the agency to sell its obligations directly to the Treasury, the purchase of these obligations to be treated as a public debt transaction. This direct borrowing from the Treasury obviated the necessity of obtaining approval of Congressional appropriations committees. This method of appropriating funds from the Treasury in a legislative bill set the precedent for backdoor spending.

In the 30's the principal functions financed were three: (1) relief from the economic emergency, (2) housing construction, (3) aid to agriculture. Housing and aid to agriculture have continued to be dominant purposes in the quarter of a century during which this form of financing has been used. During World War II and again during the Korean conflict, various national defense or war purposes were also financed by use of this device. Tables 1 and 2 on page 7 show the programs financed in this manner since World War II.

The Problem

All expenditures except public debt transactions are subjected to scrutiny by the appropriations committees in terms of over-all spending.

In establishing the appropriations committees as standing committees, Congress recognized that each of the legislative committees is concerned with some specific function or

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TABLE 1

FEDERAL ACTIVITIES FINANCED BY BORROWING FROM THE TREASURY WHICH BY-PASSED THE APPROPRIATIONS PROCESS (1946-1959 INCLUSIVE)

Activity	Authorizations in Millions
Commodity Credit Corporation	$12,302.8
Federal National Mortgage Association	6,865.0
International Bank for Reconstruction and Development (subscriptions)	6,350.0
Export-Import Bank	4,499.0
Credit Line to United Kingdom	3,750.0
Federal Deposit Insurance Corporation (insurance of deposits)	3,000.0
Defense production activities	2,616.2
International Monetary Fund (subscriptions)	2,325.0
Reconstruction Finance Corporation	1,660.8
Foreign Aid Program	1,583.3
Slum Clearance Loans	1,000.0
Federal Home Loan Banks (insurance of deposits)	1,000.0
Veterans Loan Programs	933.1
College Housing Loans	925.0
Federal Savings & Loan Insurance Corporation (insurance of deposits)	750.0
Public Housing Administration	705.8
Flood Insurance	500.0
St. Lawrence Seaway Corporation	140.0
Public Facility Loans	100.0
Other	182.7
Total	$51,188.7

TABLE 2

RECAPITULATION OF YEARLY BORROWINGS FROM THE TREASURY WHICH BY-PASSED THE APPROPRIATIONS PROCESS, 1946-1959, INCLUSIVE (In Millions)

1946	$8,874.0	1953	$1,548.3
1947	2,058.3	1954	3,158.4
1948	3,000.0	1955	2,649.3
1949	1,700.0	1956	2,721.0
1950	6,847.3	1957	3,922.7
1951	2,354.2	1958	5,274.6
1952	2,374.5	1959	4,706.1
		Total	$51,188.7

Source: Magazine of Wall Street, September 26, 1959.

area of the nation's activities. Thus the views of the legislative committees are more specialized and narrow, and are usually analyzed in terms of their specific interest rather than the total impact on the Government and the nation. In fact, the legislative committees ordinarily do not have comprehensive information on the nation's finances before them when considering their specialized subjects. The appropriations committees provide a check upon the zealousness of the legislative committees to insure that funds are adequate and properly used in terms of total demands on the Treasury. The appropriations committees have been described by Representative Cannon, Chairman of the House Appropriations Committee, as the "saucer in which the hot cup of legislative tea is poured to cool."[5]

Circumventing control by the appropriations committees in the use of this device has been justified on the technical ground that Congress intended that the appropriations committees consider only expenditures "for the support of the Government." It is argued that money made available through the public debt transaction technique is not for the support of the Government but is used by agencies to support or assist certain segments of the national or international economy, and efforts to bring these under normal appropriations controls are stiffly resisted. This, of course, involves some fallacious reasoning since the impact on the Treasury is basically

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[5]Chamber of Commerce of the United States, op. cit., p. 3.

the same.

Some feel that this device can be used to push the national debt to over $400 billion, to increase the Federal deficit, and to increase inflation as additional Federal agencies are freed from congressional approval or review of their spending programs.[6]

Chairman Cannon of the House Appropriations Committee has said:

> With the public debt transaction, agencies just go ahead year after year taking money out of the Treasury with no accounting. The result is that we are on the way to spending billions of dollars.[7]

On the other hand, Senator Lyndon Johnson stated on August 21, 1959:

> Perhaps a few additional words should be said about the so-called backdoor financing. No one knows exactly who coined this phrase but it succeeds in giving the impression that there is something wrong with providing spending authority outside of an appropriation bill, but this is just not so. Regardless of whether spending authority is provided in an appropriation bill or by an authorization bill, the same congressional and Presidential action is required to enact the spending authority into law. The only real difference is that the preliminary work is handled by a different set of committees before the bill in question is acted upon.[8]

So the problem centers in this question: Should the granting of authority for agencies to create obligations or

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[6]Seib, loc. cit., p. 48.

[7]Ibid., p. 52.

[8]U.S. Congress, Senate, Congressional Action on the President's Requests for Appropriations and New Obligational Authority, 86th Cong., 1st Sess., 1959, Senate Doc. 67, p. 3.

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[6] [illegible], loc. cit., p. 96.

[7] Ibid., p. 32.

[8] U.S. Congress, Senate, [illegible] [illegible], [illegible] Cong., 1st Sess., 1959, Senate Doc. [illegible], p. 14.

to spend be prevented except on the basis of appropriation bills reported by the appropriations committees?

I can get no remedy against this consumption of the purse: borrowing only lingers and lingers it out, but the disease is incurable.

William Shakespeare (King Henry IV, Part II)

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II. METHODS OF BACKDOOR SPENDING

The following discussion covers the salient points of each of the principal methods of backdoor spending.

Authorization to Expend From Public Debt Receipts

A bill authorizing a certain program of Government will provide for funds for this program in language that can be boiled down to this: the head of the agency is authorized to issue notes or other types of obligations for sale to the Secretary of the Treasury; the Secretary is directed to buy such notes when the agency head presents them; the Secretary is authorized to sell Government bonds to the public to get the money to buy the notes with; and, finally, the Secretary is directed to treat the purchases, sales, and redemptions of the notes as a public debt transaction. Thus the name "public debt transaction" is derived.

So, Congress has authorized a program of the Government; the Treasury has raised the money to finance the program and has loaned the money to the agency administering the program; and the agency head has spent the money to carry out the program. The Treasury has some "notes" from the agency to show for the loan. The language in the authorization act has not mentioned the word "appropriation"; the whole transaction has taken place outside the appropriation process.

Contract Authorizations

Contract authorizations empower an agency to incur obligations prior to being granted an appropriation by Congress. The obligations incurred are liquidated in a subsequent year with funds provided in an appropriation bill.

The first such authorizations were voted by Congress in 1789.[1] In 1942 Congress enacted contract authorizations totaling more than $19 billion. During World War II and in the immediate postwar period, contract authorization in lieu of direct appropriation enjoyed quite a vogue both in estimates submitted in the budget and in appropriation acts. Experience during this period led the Committee on Appropriations of the House and the Bureau of the Budget to bring this practice virtually to an end during the Korean War.[2]

Contract authorization involves language authorizing the agency head to "enter into contracts" to carry out the particular program or project involved. Unlike the other devices, this one does not convey authority to draw money from the Treasury. The appropriation to pay off the contracts is requested through the regular appropriations process but the trouble is that at this point the role of the appropriations process is essentially ministerial--a contract, once made,

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[1]Sec. 3, of an act of August 7, 1789 (1 Stat. L-54) authorized the Secretary of the Treasury to enter into contract for the construction of lighthouses without making an appropriation therefor.

[2]George Y. Harvey, "Contract Authorization in Federal Budget Procedure," Public Administration Review, XVII (Spring 1957), p. 119.

must be honored. As a practical matter, this precludes the Congress from exercising its will each year on the dimensions of Federal spending to that extent. It has the effect of insulating just that much of the budget from effective annual review.

Contract authorizations totaling $31.6 billion have been provided by Congress during the 1946-59 period. As shown in Table 3, $18.4 billion was provided in legislative acts and, thus, constitutes backdoor spending authorizations. The remaining $13.2 billion was granted in appropriation bills through the regular appropriations process. Most of these latter authorizations were provided in the fiscal years 1948-1951 when a substantial part of total procurement and construction obligations were incurred under contract authorizations.[3]

TABLE 3[a]

PROGRAMS FOR WHICH CONTRACT AUTHORIZATIONS ARE PROVIDED IN LEGISLATIVE ACTS AND BY-PASSING THE APPROPRIATIONS PROCESS (1946-1959 PERIOD)

	Authorizations in Millions
Highway Programs (Budget Accounts)	$7,193.7
Highway Programs (Trust Fund 1957 through 1959) .	9,630.0
Slum Clearance Grants (1950 through 1959)	1,250.0
Civilian Airports (1948 through 1951 and 1956 through 1959)	335.2
Total	$18,408.9

[a]Source: Magazine of Wall Street (September 26, 1959) p. 17.

[3]Council of State Chambers of Commerce, Federal Spending Facts, Bulletin No. 172, (August 4, 1959), p. 3.

Revolving Funds

Revolving funds have been established from time to time to finance a continuing cycle of operations with receipts derived from such operations available for use by the fund without further action by the Congress. Sometimes a good case can be made for certain types of "housekeeping" services to be handled this way, and there is sometimes plausibility to the argument advanced in other types, but a principal fault of this technique is that there is almost always no required annual review and action by the Congress.

An example of this type of financing is the Defense Production Act Revolving Fund. This fund was set up in 1950 to stimulate production of critical materials and minerals. Title III of the Defense Production Act authorizes borrowing up to $2.1 billion from the Treasury.[4]

Financing Government Corporations

The concept of the Government corporation was introduced during World War I, but the few corporations established at that time were liquidated after the war. A large number of corporations were organized during the 1930's. The principal argument for this organization was that it made possible a degree of flexibility and adaptation to changing circumstances that could not be achieved by the regular Government departments which were subject to the rules laid down by statute or

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[4]U.S. Congress, Senate, Defense Production Borrowing Authority, 85th Cong., 2d Sess., 1958, Rept. 2091, p. 1.

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[4]U.S. Congress, Senate, <u>Defense Production Borrowing Authority</u>, 87th Cong., 2d Sess., 1962, Rept. 1641, p. 11

or by administrative regulation, and subject also to the operating limitations set by appropriation acts. It was quickly found, however, that the independent corporations were too free of control and were not responsible either to Congress or the General Accounting Office. Some degree of correction was introduced by the Government Corporation Act of 1945, which required them to submit certain budget data.

The corporation is financed from the Treasury in a variety of ways. It may be provided with initial capital by appropriation or by public-debt transactions. It is usually permitted to borrow from the Treasury up to a specified limit. In case of impairment, its capital is made good either by appropriation or by cancellation of its obligations to the Treasury. In addition, the resources of the corporation can be increased by regular appropriations. The corporation is intended to be financed by these devices on a longer-term basis than is an agency financed with annual appropriations.

In addition to these external sources of finance, the corporation is allowed to use its receipts (from loan repayments, sale of products, etc.) to finance further operations or to pay dividends to the Treasury, without congressional appropriations. The corporation thus avoids the provision of the Constitution that expenditures from the Treasury must flow from appropriations, since its receipts, technically, never go into the Treasury.

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directing the Secretary of the Treasury to pay the amounts thereof out of moneys in the Treasury not otherwise appropriated. The language usually reads as follows:

> Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to T.Sgt. Walter Casey, 608170, U.S. Marine Corps, of North Andover, Mass., the sum of $270.02.[5]

Note Cancellation

Congress has on a few occasions used this device to replenish the funds of an agency to continue operations. It is a very simple piece of language--and again, it can successfully by-pass the regular appropriations process.

To illustrate how it works, assume that an agency, under the public debt transaction device, has a $1 billion authority to borrow from the Treasury. Assume further that it has borrowed the $1 billion and issued notes to the Treasury as evidence thereof. Assume further that the agency has spent most or all of the $1 billion and reports to Congress that it needs $1 billion more to continue its operations. Congress could increase the $1 billion authority to $2 billion (again a public debt transaction), or it could, as it has on occasion, direct the Secretary of the Treasury to "cancel" the $1 billion of notes which he holds from the particular agency head. He thereupon marks them "paid" or "cancelled." The agency head

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[5] U.S., Congressional Record, 86th Cong., 1st Sess., 1959, Vol. 105, No. 110, p. 11348.

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[11] U.S., Congressional Record, 86th Cong., 1st Sess., 1959, Vol. 105, No. 125, p. 11176.

then no longer owes the Treasury anything--but the original authority to borrow $1 billion from the Treasury was not changed. In the bill directing cancellation of the notes, Congress said nothing about wiping off the borrowing authority --it still stands. So, as soon as the Secretary marks the notes "paid", the agency head can go to the Treasury with $1 billion of new notes and borrow another billion dollars against the original $1 billion authority, take the money, return to his agency, and start spending his second billion. Again, the word "appropriations" has never been used but another billion dollars has been removed from the Treasury and put to the support of a program of Government.

> Annual income twenty pounds, annual expenditure nineteen six, result happiness. Annual income twenty pounds, annual expenditure twenty pounds ought and six, result misery.
>
> (Mr. Micawber)
> Charles Dickens, (David Copperfield)

III. RENEWED CONGRESSIONAL INTEREST

Since 1930, members of the appropriations committees have been aware that public debt transactions opened a dangerous breach in their powers, but an effort was not made to stamp out the spreading practice until 1949. In that year a point of order[1] was made from the floor of the House of Representatives to the effect that the transactions were in fact appropriations. If the point of order had been sustained, all public debt transactions would henceforth have required hearings and approval by the House Appropriations Committee. Congressman Boggs of Louisiana, in the Chair at the time, ruled:

> Appropriations in its usual and customary interpretation, means taking money out of the Treasury by appropriate legislative language for the support of the general functions of the Government. The language before us does not do that.[2]

Authorizing the Treasury to use the procedure of public debt transactions for the purpose of making loans, Boggs maintained, did not constitute an appropriation.

In March, 1957, the House Appropriations Committee

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[1]It is the right of every member who notices a breach of order or of a rule to insist upon its enforcement. This is called raising a question or point of order, because the member puts to the presiding officer the question as to whether there has been a breach of order or of the rules, it being the duty of the presiding officer to maintain order and enforce the rules. (Mason's Manual of Legislative Procedure)

[2]James Reichley, "Battle at the Back Door," The Progressive, (January, 1960), p. 29.

pointed out in a report that "a substantial segment" of new authority to obligate the Government is insulated from effective annual control by such items as the public debt transaction. The Committee stated further:

> Unfortunately the practice seems to be growing. As it grows, the basis for effective annual determination of expenditure levels shrinks. The Congress cannot continue to place large segments of the budget beyond reach of annual determination without further seriously impairing the practical limits of exercise of effective control of the purse through the traditional means of the appropriations bills.[3]

In the last three years, there has been a growing concern in Congress over the use of the backdoor to the Treasury. The backdoor approaches showed up in alarming proportions in the second session of the eighty-fifth Congress (1958). Several of the borrowing bills slid through that Congress on the wave of antirecession fever that dominated the early months of the session. An emergency housing bill became law authorizing housing agencies to spend an additional $1.9 billion through Treasury borrowing and other devices free from appropriations committee control. A $2 billion increase in the Export-Import Bank's lending authority used the borrowing route. The Senate passed borrowing authority for $1 billion of loans for community facilities; 250 million in loans and grants to areas of chronic unemployment; $250 million of long-term loans and equity investments in small business, and $350 million of subsidies for the mining industry.[4]

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[3]Seib, loc. cit., p. 56.

[4]Ibid.

pointed out in a report that "a substantial segment" of new authority to obligate the Government is insulated from effective annual control of such items as the public debt transaction. The Committee stated further:

> Unfortunately the practice seems to be growing. As it grows, the basis for effective annual determination of expenditure levels shrinks. The Congress cannot continue to place large segments of the budget beyond reach of annual determination without further seriously impairing the practical limits of exercise of effective control of the purse through the traditional means of the appropriations bills.[3]

In the last three years, there has been a growing concern in Congress over the use of the backdoor to the Treasury. The backdoor approaches zoomed up to alarming proportions in the second session of the eighty-fifth Congress (1958). Several of the borrowing bills slid through that Congress on the wave of antirecession fever that dominated the early months of the session. An emergency housing bill became law authorizing housing agencies to spend an additional $1.9 billion through Treasury borrowing and other devices free from appropriations committee control. A $2 billion increase in the Export-Import Bank's lending authority used the borrowing route. The Senate passed borrowing authority for $1 billion of loans for community facilities; 250 million in loans and grants to areas of chronic unemployment; $250 million of long-term loans and equity investments in small business, and $100 million of subsidies for the mining industry.[4]

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[3][illegible], loc. cit., p. 59.

[4]Ibid.

After the housing and Export-Import Bank bills became law, House members began to feel mounting concern over the device. They demanded changes. The Rules Committee forced the Banking Committee to change from borrowing to appropriations for the community facilities loans. The Appropriations Committee forced the Interior Committee to switch over to appropriations for the minerals bill. Then the House itself killed both bills.

The House Banking Committee also was forced to switch over to appropriations for the Small Business Investment Bill and the Depressed Areas Bill. In both cases the Senate was forced to accept the switch. A second big housing bill involving more than $1 billion ultimately died on the House floor when backers narrowly missed a two-thirds margin needed for passage under the parliamentary procedure governing the bill.

The question of financing by this device came up on May 21, 1958, in the House during the debate on the admission of Alaska into the Union. It was debated in the Senate on June 9, 1958, during discussion of the Small Business Investment Act. On February 4, 1959, the argument erupted again in the House during discussion of the Veterans' Housing Bill. The Senate then had the most significant of all debates on this subject in early July of 1959, during discussion of financing the Development Loan Fund of the Mutual Security Authorization Bill. The following discussion affords a closer look at these particular debates.

Admission of Alaska into the Union

On May 27, 1958, the bill to provide for the admission of the State of Alaska was brought to the floor of the House of Representatives. Congressman Cannon of Missouri, Chairman of the House Appropriations Committee, immediately submitted a point of order that a bill containing unprivileged matter loses its privilege and therefore the Committee on Interior and Insular Affairs had no authority to bring it to the floor at that time.[5] The unprivileged matter resulted from the bill being reported by a legislative committee but containing appropriations. This was in violation of clause 4, rule 21, of the House, limiting the reporting of appropriations to the Committee on Appropriations. The bill, he stated, provided payment to Alaska of certain proceeds which otherwise would be deposited to the Treasury of the United States.[6] Another section of the bill required payment of Federal funds to the State of Alaska.

Was this an appropriation in a legislative bill?

Chairman Smith of the House Rules Committee, a staunch critic of backdoor spending, argued that any language in a bill which orders the payment of money from the Treasury without the

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[5] Privilege relates to the order of business under the rules. Essentially it means that the most important matters of business are greatly expedited by a specific right of immediate consideration by the House. (House Rules and Manual)

[6] "Commencing with the year during which Alaska is admitted into the Union, the Secretary of the Treasury, at the close of each fiscal year, shall pay to the State of Alaska 70 percent of the net proceeds, as determined by the Secretary of the Interior, derived during such fiscal year from all sales of sealskins or sea otter skins . . ."

requirement of further action by the Congress is undoubtedly an appropriation. The jurisdiction of the Committee on Appropriations had been clearly invaded. Alaska could be just as good a state and just as complete without this language as with it.

Those who sought to have the point of order overruled cited precedents permitting in an admission bill the including of matters necessary to accomplishment of the purposes for which privilege is given. Matters of extraordinary importance should be expedited and not bottled up behind lesser matters. After all was not the State of Wyoming admitted under the same rule and same circumstances? This bill provided that 5 percent of the proceeds from the sale of public lands should go to the State of Wyoming and further appropriated $30,000 to defray the cost of a state constitutional convention.[7]

The Speaker of the House in preparing to rule on this point of order indicated that he had suspected that such a point of order would be raised and with the House Parliamentarian had made a research of decisions of previous Speakers. In those cases cited, previous Speakers had permitted the including of matters necessary for the accomplishment of the purpose for which privilege was given. The Speaker in making the decision stated:

> . . . that where the major feature of the bill relates to the admission of a new State, lesser provisions incidental thereto do not destroy its privilege when reported by the

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[7]U.S., Congressional Record, 85th Cong., 2d Sess., 1958, Vol. 104, Part 7, p. 9214.

> Committee on Interior and Insular Affairs, and, therefore, for these and many other reasons, the Chair overrules the point of order.[8]

The language that some Congressmen had so violently denounced as relating to appropriations thus stayed in the bill.

<u>Senate Debate on the Small Business Investment Bill</u>

On June 9, 1958, in a Senate debate on the Small Business Investment Bill, Senator Robertson of Virginia said that he would raise a point of order against a section of the bill which authorized the Small Business Administration to borrow a total of $250 million from the Treasury and authorized the Treasury to borrow funds in order to make this money available. The grounds for this point of order would be that this procedure violated Senate Rule XXV.[9]

Senator Robertson discussed at some length and in critical vein the matter of borrowing from the Treasury. He noted that during his service as a member of the Congress since 1933 there had been many debates and discussions in both Houses concerning the question of legislation in an appropriation bill. But he could not recall a Senate discussion of the question of an appropriation in a legislative bill. This method of appropriating funds was used during the depression

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[8] *Ibid.*, p. 9216.

[9] Under Rule XXV of the Standing Rules of the Senate, all proposed legislation dealing with appropriation of the revenue for the support of the Government must be referred to the Committee on Appropriations.

years and during World War II and perhaps was justified as these were emergency situations. But its use in recent years had become increasingly commonplace. He placed the cumulative total of direct borrowing from the Treasury at $143 billion as of June 30, 1957, with $28 billion still outstanding. The Senator also stated:

> If the Banking and Currency Committee can use this procedure to finance any new program its members desire, there is no reason why all the other committees cannot do the same. I would not be at all surprised if an attempt is made in the near future to finance the entire foreign aid program by direct borrowing from the Treasury, thus avoiding the risk of having these funds cut by the Appropriations Committee. In fact, there already is precedent for such action. The $3.7 billion loan to England in 1946 and the $60 million loan to Spain in 1950 were financed by direct borrowing from the Treasury. If the violation of rule XXV is permitted to continue, an endless number of Government programs could be financed in this manner.[10]

Senator Case of South Dakota supported Senator Robertson noting that he had first raised this point of order in connection with the Housing Act of June 28, 1949, while he was a member of the House of Representatives.[11] He had raised it on one other occasion in the Senate but did not ask for a ruling as he felt the Senate had an inadequate amount of material to make clear the issues involved.

Later in the discussion, Senator Robertson stated that in view of the magnitude of the question and since the members of the Senate should have a little more notice of what is involved, the point of order would not be made. He also

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[10]U.S., Congressional Record, 85th Cong., 2d Sess., 1958, Vol. 104, Part 8, p. 9446.

[11]Supra, p. 18.

thought that an adverse ruling from the Chair might create a precedent--particularly if no action was taken by the Senate to overrule it.

After this, Senator Fulbright received permission to have two statements printed in the Record presenting his views in opposition to such a point of order. Senator Case received permission to have printed in the Record a letter from the Comptroller General dealing with this subject.[12]

So the Senate had not yet squarely faced the issue, but it had been put on guard that the issue would be brought up again later.

House Debate on the Veterans' Housing Bill

The next significant backdoor spending debate of recent years took place on the floor of the House on February 4, 1959. The bill being considered was the Veterans' Housing Bill. This bill was designed to provide additional funds for direct loans to veterans and to increase the ceiling on the interest rate for these loans. The particular language upon which the debate was based:

> In addition to the sums authorized in this subsection, the Secretary of the Treasury shall also advance to the Administrator such additional sums, not in excess of $300 million as the Administrator may request. . .[13]

No point of order was made on this bill. Congressman

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[12]Statements and letter appear on page 9447 of the Record of June 9, 1958.

[13]U.S., Congressional Record, 86th Cong., 1st Sess., 1959, Vol. 105, No. 19, p. 1628.

Budge of Idaho, while not opposing the bill, called to the attention of the House that (1) the procedure called for in this legislation had not been considered by the Committee on Appropriations and that (2) if this bill was adopted the House could lose its prerogative of starting appropriation bills; if the House followed this procedure, they could certainly expect it from the Senate.

Congressman Gary of Virginia voiced strong objection to this procedure on the grounds that it was the single most important way that control of the purse was being lost by Congress--no adequate review was made of funds being spent.

Opposing Congressmen pointed out that money used in this program was not lost to the Treasury. As a matter of fact, the direct loan program showed a very nice return to the taxpayers even though it was not created primarily for that purpose. After expiration of the loan program, they pointed out, all repayments of principal and interest would revert to the Treasury and since veterans have a record of paying off their loans on an average of 10 years, the program would show a net gain to the taxpayers of hundreds of millions of dollars by 1965. Besides, if the increased interest rate provided sufficient money the Administrator of the program would not have to draw any of the $300 million.

The bill was passed authorizing that sums not in excess of $300 million dollars be advanced by the Treasury and that the interest rate be raised from 4 3/4 percent per year to 5 1/4 percent per year.

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The bill was passed stipulating that none not in excess of $300 million dollars be advanced by the Treasury and that the interest rate be raised from 4 3/4 percent per year to 5 1/4 percent per year.

The issue of backdoor spending was lost amid legislation which most agreed was sorely needed for a very good program.

Senate Debate on the Development Loan Fund of the Mutual Security Bill

On July 1, 1959, during Senate floor discussion of the Mutual Security Bill, Senator Case of South Dakota raised a point of order against a proposal by the Foreign Relations Committee to place development loans to foreign lands on a public debt transaction basis. According to Senator Case, funds for these loans would be drawn out of the Treasury, and therefore such funds would constitute appropriations. An appropriation could not be made in a legislative bill reported by the Foreign Relations Committee--appropriations must be reported only by the Appropriations Committee.

Senator Fulbright of Arkansas, Chairman of the Foreign Relations Committee, felt that this restriction would effectively put an end to development loans. Senator Aiken of Vermont read to the Senate a long list of programs supported by public debt transactions, and argued that if the Case point of order were sustained all of these programs would be subject to the same loss of freedom.

On the advice of the Parliamentarian, the Chair ruled against the point of order, justifying the ruling on the grounds that the practice objected to had been followed in many previous laws. The Senate had acquiesced in that practice and no previous objection had been raised.

This touched off a very interesting parliamentary

situation. Senator Case temporarily appealed from the decision of the Chair, intending to withdraw the appeal after making a statement. Sensing increased support, however, he later changed his mind and decided not to withdraw the appeal. This announcement was followed by further debate which was eventually cut short by Senator Aiken who moved to lay on the table the appeal from the ruling of the Chair.[14] The Chair ordered a yea-or-nay vote on the motion to table the appeal. Thus a vote "yea" on the motion to table amounted to a vote in opposition to the point of order and in favor of continuing the loan procedure. There were 42 "yeas" and 48 "nays", so the motion to table was rejected and the appeal still was open to a vote. It appeared by the preliminary vote that Senator Case had at last gathered enough support to overrule the decision of the Chair on the point of order. The Senate was very close to the test that it had previously managed to sidestep.

Senate Majority Leader Johnson, sensing that the Senate was prepared to throw all of the public debt programs into permanent jeopardy, with the help of a threatened filibuster by Senator Morse of Oregon, managed to get an adjournment before a final vote.

What happened later that night remains a matter of controversy. Johnson claims that he made a rapid count of noses tried without success to sway the judgments of several who had

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voted in favor of the point of order, and concluded that if the Case motion came to a vote the following day it was certain to be carried.[15]

The test never came. The next morning Senator Johnson worked out a compromise with the Minority Leader, Senator Dirksen, who had directed the Republican forces in support of Senator Case the night before. The points of agreement between the two leaders, with the consent of Senator Case, were three: (1) that the appeal from the ruling of the Chair on the point of order would be withdrawn, (2) that the Development Loan Fund would be reduced in scope and would receive funds only through regular appropriation bills, (3) that the entire issue of backdoor spending would be referred to a special inquiry by the Senate Rules Committee.

The Mutual Security Bill as debated directed the Treasury to turn over five billion dollars from the sale of bonds to the Development Loan Fund for making loans to agencies of foreign countries at the rate of a billion dollars a year for the next five years. The compromise authorized direct appropriation of $700 million for the Development Loan Fund for fiscal year 1960 and $1.1 billion in fiscal 1961.

The settlement was presented to Senator Fulbright, Chairman of the Foreign Relations Committee. He regarded the reduction in the Development Loan Fund as a blow aimed at his own prestige and the effectiveness of the Mutual Security Bill but he finally agreed to the compromise. Later in the day the

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[15] Reichley, loc. cit., p. 31.

voted in favor of the point of order, and consequent upon it the Case motion came to a vote the following day as it was certain to be rejected.[15]

Then next sense came. The next morning Senator Johnson worked out a compromise with the minority leader, Senator Dirksen, who had directed the Republican forces in support of Senator Case the night before. The points of agreement between the two leaders, with the consent of Senator Case, were three: (1) that the appeal from the ruling of the Chair on the point of order would be withdrawn, (2) that the Development Loan Fund would be reduced in scope and would receive funds only through regular appropriation bills, (3) that the entire issue of backdoor spending would be referred to a special inquiry by the Senate Rules Committee.

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[15] Zelenko, loc. cit., p. 9.

compromise was approved on the floor by voice vote and the point of order was withdrawn.

A final decision on the principle of public debt transactions had been avoided--but at the price of surrendering its use in an area in which advocates believed that the freedom which it grants would have been particularly useful.

The Back Page

As a result of the renewed congressional interest in backdoor spending, Senator Lyndon Johnson on August 21, 1959, received unanimous consent on the floor of the Senate to have printed on the back page of the Congressional Record a table (Table II) showing the status each day of new obligational authority provided by the Congress outside the appropriation process. This table was in addition to the table already appearing there daily (Table I) showing the status of appropriation bills acted upon by the Congress. Table II appeared daily from August 21st to the end of the session.

As soon as this table began to appear, opponents of backdoor spending began to pick at it. Senator Dirksen called attention to an error but passed it off as a misprint. But he was not so willing to pass off the fact that the new table did not adequately emphasize the action taken by the Senate or the ultimate results. On September 15th he cited incompleteness and inaccuracies in both Table I and Table II of the back page and received unanimous consent to have printed on the next to last page a Table No. 2 "correcting" Table II of the back page and a Table No. 3 showing a complete analysis of congressional

appropriation was approved on the floor by voice vote and the point of order was withdrawn.

A floor revision on the principle of public debt transactions was then rejected--not at the price of interpreting its use in an area in which advocates believed that the Congress would [illegible] have been ineffectively [illegible].

<u>The Back Page</u>

As a result of the renewed congressional interest in economy spending, Senator Lyndon Johnson on August 21, 1957, received unanimous consent on the floor of the Senate to have printed on the back page of the congressional record a table (Table II) showing the status each day of new obligational authority provided by the Congress outside the appropriation process. This table was in addition to the table already appearing there daily (Table I) showing the status of appropriation bills acted upon by the Congress. Table II appeared daily from August 21st to the end of the session.

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actions on appropriations. Figures obtained from the Budget Bureau by Senator Dirksen showed the President's request to be $5,220 million in backdoor spending with an increase by the Congress of $381 million. Figures obtained from the same source by Senator Johnson showed $6,400 million for the request of the President with a decrease of $699 million by the Congress. The differences could not be reconciled at the time although, according to Senator Dirksen, it was a matter of "interpretation and refinement."[16] The tables proposed by Senator Dirksen appeared in the Record on September 15 and October 5, 1959.

On September 10, 1959, Congressman Curtis of Missouri, on the floor of the House, included in the Record three sets of corrections for Table I, a revised Table II, and a Table III which included $1,683,900,000 in spending increases not requested by the President but "skipped over" in the other two tables.[17] Congressman Cannon on October 5, 1959, remarked in the Record that the tabulations furnished by Congressman Curtis were misleading and inaccurate. Congressman Cannon had furnished his own tables on September 15th for the Record.

There was no lack of figures for the tables on the back page (or any other page) but no one seemed to agree on the correct set of figures.

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[16] U.S., Congressional Record, 86th Cong., 1st Sess., 1959, Vol. 105, No. 164, pp. 18153-18154.

[17] Ibid., No. 160, p. 17475

Attempted Reform--Changing the House and Senate Rules

The stumbling block upon which attempts by Congress to curb backdoor spending have tripped is the definition of an appropriation. If agreement is reached that certain language in pending legislation relates to appropriations, then no backdoor spending argument develops. The legislation must be referred to the appropriations committees. It is those cases that circumvent the appropriations committees that give rise to renewed efforts to change the rules of the Senate and the House. The changes suggested would make it clear that all money bills would have to be referred to the appropriations committees.

Congressman Smith of Virginia, Chairman of the House Rules Committee, on July 25, 1958, introduced a resolution designed to curb the bypassing of the House Appropriations Committee.[18] No action was taken on this resolution. However, Congressman Smith introduced a similar resolution, H.Res. 161, on February 4, 1959. This resolution would amend clause 4 of Rule XXI of the House to read:

> 4. No bill or joint resolution carrying appropriations or other language that will permit the withdrawal of money from the Treasury without further action by the Congress, or carrying other authority to create obligations by contract in advance of appropriations, shall be reported by any committee not having jurisdiction to report appropriations, nor shall an amendment proposing such appropriation or withdrawal or such other authority be in order during the

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[18] H.Res. 646. Such a resolution does not become a law. It simply changes one of the House rules of procedure. The Senate could still continue passing bills or amending House measures to permit backdoor spending.

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> consideration of a bill or joint resolution reported by a committee not having that jurisdiction. A point of order may be raised against any such appropriation, language, or amendment at the appropriate time during the reading of the bill or joint resolution for amendment.[19]

The House Rules Committee held hearings on this resolution on six different occasions during February and March of 1959. These hearings produced an unusually clear picture of the disposition of power in the House. Some of the strongest foes and sturdiest defenders of the Appropriations Committee were called as witnesses. The top men of the Appropriations Committee testified in favor of the resolution. Strong opposition came from the heads of the committees who felt their authority threatened by the Appropriations Committee. The Chairmen of the Agriculture Committee, Banking and Currency Committee, and Chairman Vinson of the Armed Services Committee testified that their programs would be crippled by the Smith resolution. Chairman Vinson dealt a damaging blow when he said:

> I have followed the chairman of this committee around here for 30 years, and I plan to continue to follow him in the future, but I can not approve a resolution that would cause disaster to some of the nation's most important defense projects.[20]

Also in opposition to this resolution was Speaker of the House Sam Rayburn who voiced his objections to reporters during the Rules Committee Hearings.

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[19] U.S., Congress, House, Amending Clause 2(a) of Rule XI and Clause 4 of Rule XXI of the Rules of the House of Representatives, 86th Cong., 1st Sess., 1959, H.Res. 161, pp. 1-2.

[20] Reichley, loc. cit., p. 30.

At the conclusion of the hearings, Chairman Smith of the Rules Committee recognized that he lacked a majority and never called for a vote. No further action has been taken on the resolution and it is still pending in the Rules Committee, likely never to reach the floor of the House.

On March 11, 1959, Senator Byrd of Virginia introduced a similar resolution which, in part, reads:

> . . .subsection (b) of rule XXV of the Standing Rules of the Senate is amended to read as follows:
> (b) Committee on Appropriations. . .to which Committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:
> 1. Expenditure authorizations. As used in this paragraph, the term 'expenditure authorizations' means current appropriations, permanent appropriations, contract authorizations, authorizations to expend from public or corporate debt receipts, cancellation of obligations of Government agencies to the Treasury, reappropriations, reauthorizations, and any other authorizations to withdraw moneys from the Treasury of the United States except. . .for the payment of private claims.[21]

Senator Thurmond had on February 17, 1959, introduced a resolution, S.Res. 81, which contained language similar to that later introduced in the Byrd resolution.

Both of these resolutions were referred to the Senate Committee on Rules and Administration. No action has been taken to date by the Rules Committee in spite of the announcement by the Chairman on January 7, 1960 that after disposition of various money resolutions, they would be considered.[22]

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[21] S.Con.Res. 16. A concurrent resolution does not become law but changes a joint rule of the Senate and House.

[22] U.S., <u>Congressional Record</u>, 86th Cong., 2d Sess., 1960, Vol. 106, No. 2, p. D3.

At the conclusion of the hearings, Chairman Smith of the Rules Committee recognized that he lacked a majority and never called for a vote. No further action has been taken on the resolution and it is still pending in the Rules Committee, not likely ever to reach the floor of the House.

On March 13, 1959, Senator Byrd of Virginia introduced a similar resolution which, in part, reads:

> . . . paragraph (c) of rule XVI of the Standing Rules of the Senate is amended to read as follows:
> (c) Committee on Appropriations. . .to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:
> 1. Expenditure authorizations. As used in this paragraph, the term 'expenditure authorizations' means current appropriations, permanent appropriations, contract authorizations, authorizations to expend from public or corporate debt receipts, cancellation of obligations of Government agencies to the Treasury, reappropriations, reauthorizations, and any other authorizations to withdraw moneys from the Treasury of the United States except. . .for the payment of private claims.[21]

Senator [illegible] had on February 12, 1959, introduced a resolution, S.Res. 61, which contained language similar to that later introduced in the Byrd resolution.

Both of these resolutions were referred to the Senate Committee on Rules and Administration. No action has been taken to date by the Rules Committee in spite of the announcement by the Chairman on January 7, 1960 that after disposition of various money resolutions, they would be considered.[22]

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[21]S.Con.Res. 11. A concurrent resolution does not become law but adopts a joint rule of the Senate and House.

[22]U.S., Congressional Record, 86th Cong., 2d Sess., 1960, Vol. 106, No. 2, p. 43.

IV. SUMMARIZATION AND CONCLUSIONS

The Case for the Public Debt Transaction

Among the arguments used by proponents of the public debt transaction are the following:

1. There have been many precedents where this type of financing has been used.

2. On constitutional grounds, lending money from the Treasury that will be repaid is not appropriations for the support of the Government. Money is not withdrawn from the Treasury until the Treasury has no further claim to the money.

3. Since the public debt transaction is most usually employed in Government lending programs or in the financial operation of Government corporations, this provides a sounder method of providing capital than appropriations. It is not feasible for a Government lending program to be carried on a year-to-year basis. No lending institution could effectively operate if it could not be sure that on the first day of the next fiscal year its doors would be open or closed. No business concern can operate without long range plans. The public debt expenditure device allows needed flexibility in program operations.

4. Public debt transactions are not out from under control of Congress; control merely originates in a legislative committee rather than the appropriations committees.

5. Appropriations committees should not assume policy functions. When the appropriations procedure is used instead of public debt transactions, appropriations committees, by withholding funds, could change policies adopted by legislative committees.

6. If some way is not found to get around the power of the appropriations committees, the remainder of the House and Senate will become mere ratifying bodies, subject to the proposals brought forth from the appropriations committees.

7. If all spending were approved by the appropriations committees, determination of the amount of fund authorizations would be delayed because both the legislative and the appropriations committees would have to examine the operations and needs of the program.

The Case Against the Public Debt Transaction

Opponents counter with these arguments:

1. Under the Constitution, money cannot be drawn from the Treasury except in consequence of appropriations made by law. The word is drawn, not expended. Since public debt transactions draw money from the Treasury, they must be appropriations. Appropriations, under the rules of both the Senate and the House must go through the appropriations committees. Therefore, the provision for public debt transactions should be changed to an authorization for appropriations. This would be in consonance with the rules.

2. It is vitally important not to by-pass the review

procedures involving the appropriations committees. Growing use of the public debt transaction could seriously impair the congressional power of the purse.

3. The merits of the particular program are not an issue in this problem. Members of Congress could support a program but still insist that it be financed according to the rules.

4. Sustaining a point of order raised against a bill from a legislative committee on the ground that it carried appropriation language would not affect any other programs on the statute books similarly financed. It would, however, set a precedent which could be used on later occasions.

5. With regard to contract authorizations, the only function of the appropriations committees is to provide the funds to liquidate obligations incurred. This is nothing more than a rubber stamp procedure insofar as the appropriations process is concerned.

6. Legislative committees consider matters with special needs in mind, not in consideration of total needs of the Government and its ability to meet them.

7. Cutting out backdoor spending will lessen the expense of running the Government. If the backdoor spending of the last fourteen years had been subjected to the second look of the appropriations process, it is possible that there would have been fewer deficits and it is practically certain the deficits would have been smaller and the few surpluses larger.

8. In some cases activities served are charged a lower rate of interest than the Treasury has to pay for the money which

it lends them.

9. This device will increase the Federal deficit and add to inflationary pressure.

Those in Congress who oppose backdoor spending have been backed up many times by nongovernmental authorities as well as official authorities. The U.S. Chamber of Commerce has been one of the main nongovernmental critics of the device. On the official side, the President, the Secretary of the Treasury, and the Comptroller General have been strong opponents of backdoor spending.

President's Position

The backdoor system of spending drew this comment from President Eisenhower in his message to Congress on the 1960 budget:

> . . .even though there are a few justifiable exceptions, the practice of providing authorizations to expend from public debt receipts and contract authority, outside the appropriations process is generally inconsistent with sound standards of budget practice.[1]

The President's budget for fiscal 1961 contains no proposals for new backdoor financing.

Views of the Treasury Department

Answering the argument that this is a legitimate borrowing process and not an appropriation of Federal funds, Treasury Secretary Anderson has stated:

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[1]McLellan Smith, "Will U.S. Spend Itself into Bankruptcy through Backdoor Spending?", The Magazine of Wall Street, (September 26, 1959), p. 16.

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Rejecting the argument that this is a legitimate borrowing process and not an appropriation of federal funds, Treasury Secretary Anderson has stated:

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[1][illegible], [illegible] through Backdoor Financing", The Magazine of Wall Street, (September 26, 1959), p. 12.

> I agree that a legislative enactment that permits money to be drawn from the Treasury is an appropriation.[2]

Comptroller General's Viewpoint

Congress' principal financial officer, the Comptroller General of the U.S., has for many years criticized the use of the public debt transaction technique for authorizing expenditures. Several times he has stated that the normal appropriation process should be used rather than the public debt transaction. The following statement sets forth his views:

> Authorizations to finance through public debt transactions result in moneys being expended without the initial review by the appropriations committees and are usually stated in terms of a continuing maximum amount of obligations to the Treasury which can be outstanding at any time, thus avoiding the annual reviews by the appropriations committees. We believe that the financing of loan programs through public debt transactions, by combining program authority with funding, tends to perpetuate programs that might not otherwise stand the test of continued congressional scrutiny.[3]

Conclusions

Billions of dollars are authorized for expenditure each year with no control being exercised by the House and Senate Appropriations Committees. Yet, they are the only two committees which are concerned with the spending budget as a whole; and they are the only two committees which might, under more favorable circumstances than now exist, actually control the budget.

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[2]Letter from Hon. Robert B. Anderson, Secretary of the Treasury, to Congressman J. Vaughan Gary, August 12, 1958.

[3]Letter from Hon. Joseph Campbell, Comptroller General of the United States, to Senator Francis Case, June 6, 1958.

The need for full annual control of spending authorizations through the appropriations process is clearly evident. The second look, which Congress can take through the appropriations process with the expert guidance of the appropriations committees, is the safeguard of Congress in enactment of expenditures. By allowing the public debt transaction to flourish, Congress has encouraged special interest groups and legislative committees themselves to avoid the budgetary control provided by the normal appropriation process.

The obvious solution seems to be to eliminate the public debt transaction and provide that funds required for activities --lending or otherwise--be subjected to the normal appropriation process with Congress getting a double check on each bill and an annual review of the program.

Attempts to change the House and Senate Rules to eliminate the by-passing of the appropriations committees have not succeeded. However, the attempts to change the rules have had a profound effect upon the passage of money bills. Some bills originally intended to be passed providing for use of the public debt transactions have been changed to appropriations bills or have been killed.

The renewed interest of the Congress in this problem brings the revision of the rules ever closer to reality. The skirmish on the floor of the Senate in connection with the Development Loan Fund came close to a real test of the present rules.

Party loyalties are not so dominant in this issue as in

most issues. With the powerful appropriations committees against the device, the effort to deal with the issue by suppressing it is running out of time.

> . . .one rule which woe betides the banker who
>   fails to heed it,
> . . .never lend any money to anybody unless they
>   don't need it.
>
> Ogden Nash

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